

1 I'm -- I'm willing to bet this is the car they hit,
2 but I -- I can't recall the actual car.

3 Q. Okay. All right. At the time that
4 Officer -- I think you indicated Officer Jorg had
5 tackled Mr. Owensby high, grabbed him around the
6 shoulders.

7 A. That's correct.

8 Q. Is that right? Did you tackle Mr. Owensby
9 also?

10 A. As I approached Jorg and Owensby, they
11 were already halfway to the ground, and the only
12 exposed part of Owensby that I could see were his
13 legs. So I dropped low and started to go in to take
14 him at the legs to take him to the ground.

15 Now, I don't know if my impact caused the
16 fall to the ground. I don't know if they were
17 already onto the ground or -- all I know is that,
18 like I said, it was a blur of activity. I've got
19 faint moments of pictures in my mind as to what
20 happened.

21 When we were on the ground and now
22 struggling with Owensby, I had essentially ahold of
23 his right foot. At some point I keyed up my mike
24 and started screaming, "Sunoco lot. Sunoco lot.

1 towards the middle of his back and I wasn't moving.
2 It simply wasn't moving. And, because I didn't
3 already smell it, I figured Mace wasn't employed at
4 this point. And I screamed, "Mace this guy," and
5 nothing happened. And I screamed again, "Somebody
6 Mace this guy," and nothing happened.

7 And I looked up and I saw David Hunter on
8 one knee near the head of Roger Owensby, and the
9 best way I can describe it is he had like a deer
10 caught in the headlights look on his face and he's
11 looking at Roger Owensby's face.

12 Officer Jorg at this point is laying at an
13 angle across Owen-- I guess it would be Owensby's
14 left shoulder.

15 Q. Where's Officer Jorg's head?

16 A. Up near Owensby's head.

17 Q. Okay.

18 A. And I looked at Officer Hunter and I
19 bellowed at the top of my lungs, "Mace this mother
20 fucker." The intent was to shock him into action.

21 Q. Okay.

22 A. At which point he snapped, went to his
23 Mace canister and started to pull it out. And I --
24 my -- I dropped my attention back to the handcuff.

1 that were a PR-24, how you would place it?

2 A. Well, I can't get my arm into the
3 position. Let's say this is the -- the right arm
4 and I want it to go that way (indicating). I would
5 lever it that way (demonstrating).

6 Q. Okay. Thank you.

7 So the handcuffs are on?

8 A. Right.

9 Q. Now what happens?

10 A. We basically all stand up. There's a
11 great feeling of relief. We got this guy in
12 custody.

13 I'm looking at Officer Hodge. I'm looking
14 at Officer Jorg. We're standing in close proximity
15 to one another, where there's a -- okay, we got this
16 guy in custody; let's stand him up.

17 Q. Where's Officer Hunter?

18 A. I don't know.

19 Q. And Officer Hodge is standing to your
20 right?

21 A. To my right.

22 Q. How far are you from the car?

23 A. I don't know.

24 MR. HARDIN: Objection. I -- I just don't

1 Q. When he was on his knee; when you saw him
2 and were yelling to him.

3 A. Two to three feet.

4 Q. And you -- I take it you did not see him
5 deploy the Mace?

6 A. No.

7 Q. So you don't know exactly where he was
8 when he deployed the Mace?

9 A. No.

10 Q. Am I correct in understanding that in
11 effectuating this arrest that you, Officer Jorg,
12 Officer Hunter, Officer Sellers and Officer Hodge
13 worked together to effectuate this arrest?

14 A. Yes.

15 Q. At this point in time when you stand up,
16 what, if anything, is Mr. Owensby doing?

17 A. He's lying on the ground with his hands
18 cuffed behind his back.

19 Q. Any movement?

20 A. I -- I don't recall.

21 Q. At this point did you think that Mr.
22 Owensby was dead?

23 A. Absolutely not.

24 Q. Did you think that Mr. Owensby had been

1 A. I grabbed him by the waistband of his
2 pants. And he was wearing like athletic pants that
3 had an elastic waistband, so when I stood back up to
4 hoist him up, all they did was stretch. All they
5 did was stretch, and I let him go.

6 I said, "Fellows, stand this guy up," at
7 which point Officer Sellers circles around me from
8 my left, straddles Owensby, reaches un-- basically
9 around his waist, under his waist with both arms and
10 just hoists him back into an upright position and --

11 Q. Kneeling position?

12 A. Right up into a standing position. It was
13 a pretty impressive move. In fact, I recall him
14 doing it and thinking, wow, I wouldn't have been
15 strong enough to do that.

16 Q. Okay. Then what?

17 A. As he comes up, I go right underneath his
18 right arm, take him under his right arm and start
19 looking for a Cincinnati police cruiser to put him
20 in.

21 There wasn't anybody on scene at -- at the
22 Sunoco lot, and -- and I know this now -- I know why
23 now: because when I put out the assistance call, I
24 guess the dispatcher didn't hear me scream "Sunoco

1 Q. Where's Officer Jorg?

2 A. I don't know.

3 Q. Okay. What happens?

4 A. We look up, we see the Golf Manor officer,
5 and I think we all said it at once, "Can we use your
6 car?" And he just nods and starts walking towards
7 his cruiser, presumably to open up the back door of
8 it, and we start walking towards the cruiser.

9 I would describe Owensby's behavior as
10 being passively resisting. At one point he raised
11 his legs up off the ground to keep us from walking
12 towards the cruiser, and we almost all pitched
13 forward back to the ground at that point. And
14 somebody said, "Put your feet down and walk," and he
15 did.

16 Q. Did you say that?

17 A. I -- I don't recall. I could have -- I
18 could have been the one who said that.

19 Q. The officer, the Golf Manor officer that
20 you and the others had asked to place Mr. Owensby in
21 the car, do you know who that was?

22 A. No, I don't.

23 Q. Do you know who Officer Heiland is?

24 A. I've heard the name, but I don't know

1 And I said, "He said his name was Roger
2 something, but I can't recall."

3 He said, "Well, let's begin there." And
4 that's when we approached the Golf Manor cruiser.

5 And he looked in the passenger -- or the
6 driver's side rear door and realized that he wasn't
7 moving, and he opened -- he opened the door and
8 started to lean in.

9 And I stopped him. I said, "Sarge, be
10 careful. He might be playing possum," indicating
11 from experience when you have a violent prisoner
12 sometimes they'll try and lure you back in the car
13 so they can hurt you.

14 And he said "No, Pat, I don't think that
15 guy's breathing." And we shined the flashlight in
16 and we realized he was actually not breathing. And
17 that's when we began the process of getting him out
18 of the car.

19 Q. This is from the driver's side?

20 A. The driver's side.

21 Q. So his head would have been toward you and
22 his feet would have been away from you?

23 A. That's correct.

24 Q. Did -- okay. What -- what happened next?

1 cruiser on scene, and it was there. It was my
2 intention to use it as a temporary holding facility
3 until we could bring a cruiser over and transfer him
4 to a Cincinnati cruiser.

5 Q. The guardrail you're talking about -- I'm
6 referring you to Exhibit 31. The guardrail you're
7 talking about having to climb over is the one to the
8 south side of Sam's? Is that -- is that what you're
9 referring to?

10 A. I believe it's the northwest side, where
11 your thumb is. Oh, I'm sorry, the south side --

12 Q. Of Sam's.

13 A. -- of Sam's, yes.

14 Q. Of Sam's?

15 A. The south side of Sam's, that's correct.

16 Q. Okay. But in this area you can walk him
17 on the sidewalk and not have to climb over any
18 guardrail, right?

19 A. Actually, that's not fairly accurate. The
20 guardrail, as I recall it that night, comes almost
21 all the way out to the street.

22 Q. Well, the sidewalk --

23 A. There's a --

24 Q. -- is not -- there's no guardrail --

1 think you used "secure the scene," but I think
2 Officer Jorg may have used "stabilize the scene."
3 Is that the same thing in your mind?

4 A. Relatively the same thing, yes.

5 Q. Okay. And is it true that one of the
6 things that at least you intended to do to stabilize
7 the scene was to take Mr. Owensby and put him back
8 into a Cincinnati police officer cruiser? Is that
9 correct?

10 A. Absolutely.

11 Q. Okay. And I think you used the word "a
12 temporary," the Golf Manor cruiser was a temporary
13 holding place for him.

14 A. Yes.

15 Q. Is that correct?

16 A. Yes, ma'am.

17 Q. Okay. And that was your intent when you
18 put him into the vehicle?

19 A. Until we could get one of the officer's
20 cars, Cincinnati cars over, who was involved in the
21 incident.

22 Q. Okay. Do you have any idea whether the
23 one Golf Manor officer or any Golf Manor officers
24 had any idea of whether Mr. Owensby was injured when